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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,760	12/21/2000	Alireza Raissinia	CISCP667	4516
26541	7590	06/09/2005	EXAMINER	
RITTER, LANG & KAPLAN P.O. BOX 2448 SARATOGA, CA 95070			LEE, JOHN J	
			ART UNIT	PAPER NUMBER
			2684	

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 09/748,760	<b>Applicant(s)</b> RAISSINIA ET AL.	
	<b>Examiner</b> JOHN J LEE	<b>Art Unit</b> 2684	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) a set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: none.  
 Claim(s) objected to: none.  
 Claim(s) rejected: 9-12,21-24,27 and 28.  
 Claim(s) withdrawn from consideration: none.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
 13. ☒ Other: See Continuation Sheet.

Continuation of 11. does NOT place the application in condition for allowance because: The applicant's arguments received on 3/14/200 have been carefully considered but they are not persuasive because the combined teaching of all the cited references as set forth in the previous final rejection reads on all the claims.

In this case, for example, The Applicant argues that the combination of Fischer (US Patent number 5,371,734) and Gutman et al. (US Patent number 5,691,729) do not teach the claimed limitation "during the upstream quiet period, measuring signal strength within the receiver, and determining receiver gain based on the measured signal strength and a known noise level". However, Fischer teaches that during the quiet period (no transmissions (beacon channels within communication cycle) are received for a predetermined period time and determines RF state relative communication power see Fig. 3 and column 39, lines 58 - column 40, lines 10), measuring signal strength within the receiver (to receive RF signals/beacon signals during each communication cycle (quiet period or data reception period) based on the strength of the received signal/beacon signal (measuring signal strength during the quiet period and data reception period within cycle) see column 6, lines 23 - 62 and Fig. 3, 18), and determining receiver gain based on the measured signal strength (the receiver determines and adjusts the receiver gain after measured the signal strength with in quiet period and signal reception period see Fig. 5 and column 16, lines 20 - column 17, lines 2), and also Gutman teaches determining receiver gain based on monitoring signal levels (strength and the constructive use of noise signals (front end noise (known) during the quiet period) (see Fig. 1, 2 and column 5, lines 19 - column 6, lines 67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Fischer system as taught by Gutman, provide the motivation to enhance the signal adaptability and reliability by precise measurement from reception period in communication system. Also, the claim limitation is not require or limit to interpret into special function, detail, or purpose.

Continuation of 13. Other: If any inquiry of this application, please call the Examiner's direct phone number (571) 272-7880.

  
**NAY MAUNG**  
SUPERVISORY PATENT EXAMINER